

# **EXHIBIT E**

MAR-06-2003 15:15

U.S. COURTS HAWAII

888 541 1303 P.02/06  
DISTRICT OF HAWAII

UKIWIWA

MAR 6 2002  
at 3 o'clock and 40 minutes  
WALTER A. Y. H. CHINN CLERK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

WAYNE BERRY,

) CIVIL NO. 01 00446 SPK LEK

Plaintiff,

)

vs.

)

FLEMING COMPANIES, INC., aka  
FLEMING FOODS, INC., aka  
FLEMING,  
DOE INDIVIDUALS 1-50 AND  
DOE PARTNERSHIPS,  
CORPORATIONS AND OTHER  
ENTITIES 1-20,

) SPECIAL VERDICT FORM

Defendants.

)

)

SPECIAL VERDICT FORM

A. FREIGHT CONTROL SYSTEM SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Freight Control software attached to Exhibit 221?

Yes

No

If "YES" go to next question.  
If "NO", skip to section B.

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2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Freight Control software.

Yes

No \_\_\_\_\_

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Freight Control software.

Yes

No \_\_\_\_\_

If "NO" skip to section B.

If "YES" go to next question.

4. Was the infringement of the Freight Control software copyright willful?

Yes

No \_\_\_\_\_

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of Freight Control System software?

\$ 99,250.00

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B. CRYSTAL REPORTS SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the Crystal Reports software attached to Exhibit 222?

Yes

No \_\_\_\_\_

If "NO", skip to section C.

If "YES" go to next question.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the Crystal Reports software.

Yes

No \_\_\_\_\_

If "YES" go to next question.

If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the Crystal Reports software.

Yes \_\_\_\_\_

No

If "NO" skip to section C.

If "YES" go to next question.

4. Was the infringement of the Crystal Reports software copyright willful?

Yes \_\_\_\_\_

No \_\_\_\_\_

Go to the next question.

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5. What amount of damages is Wayne Berry entitled to for the infringement of Crystal Reports software?

C. FLEMINGPO.EXE SOFTWARE

1. Has Plaintiff Wayne Berry proven by a preponderance of the evidence that he is the owner of the copyright to the FlemingPO.exe software attached to Exhibit 223?

Yes X

No \_\_\_\_\_

If "YES" go to next question.  
If "NO", skip to the end.

2. Did Fleming Companies, Inc. prove by a preponderance of the evidence that it has a valid license for the use of the FlemingPO.exe software.

Yes X

No \_\_\_\_\_

If "YES" go to next question.  
If "NO" go to question 4.

3. Did Wayne Berry prove by a preponderance of the evidence that Fleming made unauthorized changes to the FlemingPO.exe software.

Yes \_\_\_\_\_

No X

If "NO" skip to the end.  
If "YES" go to next question.

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4. Was the infringement of the FlemingPO.exe software copyright willful?

Yes \_\_\_\_\_

No \_\_\_\_\_

Go to the next question.

5. What amount of damages is Wayne Berry entitled to for the infringement of FlemingPO.exe software?
- \_\_\_\_\_

Please sign and date this Special Verdict Form.

J. C. J.  
Jury Foreperson

Carol Ho Akemoto

Deece

A. K. G.

Mary P. Ohura

Mark Shumard

Date

3/6/03